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Joseph S. Nadan

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EXAMINER

ERB, NATHAN

ART UNIT

PAPER NUMBER

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/730,115	<b>Applicant(s)</b> NADAN, JOSEPH S.	
	<b>Examiner</b> NATHAN ERB	<b>Art Unit</b> 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 17-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-35 is/are rejected.
- 7) ☒ Claim(s) 1,7-9,13,17 and 19-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 27, 2010, has been entered.

### ***Response to Arguments***

2. Applicant's response to Office action was received on April 27, 2010.
3. In response to Applicant's amendment of the claims, all of the claim rejections under 35 U.S.C. 101 from the previous Office action are hereby withdrawn.
4. Please note the new objection to Applicant's declaration below in this Office action.
5. Please note the new objections to the abstract and the specification below in this Office action.
6. Please note the new claim objections below in this Office action.
7. Regarding the rejections under 35 U.S.C. 112, first paragraph, from the previous Office action, Applicant's deletion of the text "high traffic" from claim 1 has overcome that rejection. However, Applicant's replacement of the text "shipper rates" with -- shipper fees-- in claims 1 and 20 do not overcome those respective claim rejections.

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This is because "shipper rates" is very close in meaning to "shipper fees;" therefore, this amendment presents similar issues as before under 35 U.S.C. 112, first paragraph.

8. In response to Applicant's amendment of the claims, the corresponding prior art claim rejections have been correspondingly amended below in this Office action.

9. Regarding Applicant's citations to the application for the purposes of disclosing support for "shipper fees" (Applicant's Response, middle of p. 8), Examiner points out that these drawings appear to only support "equipment rental rates," as opposed to the broader term "shipper fees."

10. Applicant's arguments regarding the prior art rejections appear to be based on the "real-time" aspect of the claims, as well as returning multiple shipping resources in the results list. Examiner believes that the amended rejections below in this Office action sufficiently address both of these aspects of the claims. In particular, Examiner disagrees with Applicant's statement at the middle of p. 9 of Applicant's response that Spasovic does not teach the "real-time" aspect of the claims. See the prior art rejections below in this Office action.

#### ***Oath/Declaration***

11. The application is objected to because of alterations which have not been initialed and/or dated as is required by 37 CFR 1.52(c). A properly executed oath or declaration which complies with 37 CFR 1.67(a) and identifies the application by application number and filing date is required.

More specifically, Examiner has noticed that the declaration contains an undated alteration of Applicant's mailing address. MPEP 605.04(a)(I) states: "Any changes

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made in ink in the application or oath prior to signing should be initialed and dated by the applicants prior to execution of the oath or declaration. The Office \*\* will require a new oath or declaration >if the alterations are not initialed and dated<.”

### ***Specification***

12. The abstract of the disclosure is objected to because: In the second-from-the-end line of the abstract, please replace the word “needs” with --need--.

Correction is required. See MPEP § 608.01(b).

13. The disclosure is objected to because of the following informalities: Examiner notes that the replacement drawings submitted on May 11, 2004, appear to change the labeling of Figure 6 to Figure 6A and the labeling of Figure 6a to Figure 6B. Therefore, the corresponding references to these figures in the specification need to be changed as well.

Appropriate correction is required.

### ***Claim Objections***

14. Claims 1, 7-9, 13, 17, and 19-21 are objected to because of the following informalities:

a. In the fourteenth line of claim 1, please insert --of the plurality of members-- immediately before the comma at the end of the line.

b. In the twentieth line of claim 1, please delete the word “said.”

c. In the twenty-fifth and twenty-sixth lines of claim 1, please replace the text “maximize reciprocal loads, minimize bobtailing, and reduce congestion at terminals”

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with --maximize the reciprocal loads, minimize the bobtailing, and reduce the congestion at the terminals--.

d. In the second line of claim 7, please insert the word --field-- immediately before the period at the end of the line.

e. In the first line of claim 8, please insert the word --field-- immediately after the word "entity."

f. In the second line of claim 8, please insert the word --field-- immediately before the period at the end of the line.

g. In the only line of claim 9, please replace the text "entity is a lessor" with --entity field is a lessor field--.

h. In the second line of claim 13, please insert the word --a-- immediately following the word "comprises."

i. In the third line of claim 17, please replace the word "the" with --a--.

j. In the second line of claim 19, please insert the word --drayage-- immediately following the word "having."

k. In the twelfth line of claim 20, please insert the text --of the plurality of members-- immediately before the comma at the end of the line.

l. In the eighteenth line of claim 20, please remove the word "said."

m. In the last line of claim 20, please insert the word --result-- immediately following the word "resource."

n. In the second line of claim 21, please insert the word --readable-- immediately after the word "said."

o. In the fourth line of claim 21, please insert the word --resource-- immediately after the word "gathering."

p. In the fourth and fifth lines of claim 21, please replace the text "said participants' drayage resources" with --drayage resources of said drayage community participants--.

q. In the sixth line of claim 21, please insert the word --resource-- immediately after the first occurrence of the word "said."

r. In the seventh line of claim 21, please replace the word "participant" with --of the drayage community participants--.

s. In the eighth line of claim 21, please remove the word "drayage" at the end of the line.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

15. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

16. Claims 1-15 and 17-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

These claims are rejected due to Examiner being unable to find support in the application as originally filed for the following text in the amended claims:

a. "shipper fees" in the twelfth line of claim 1, and the tenth line of claim 20; Examiner could not find "shipper fees," that is, fees for shipping goods, in the application as originally filed; rather, the fees discussed seemed focused on equipment rental rates; even if equipment rental rates are considered to be a form of "shipper fees," note that "shipper fee" would still be a broader term than "equipment rental rate"

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 1, 3-15, 17, 19-23, 25-30, and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa et al., U.S. Patent No. 6,374,178 B2, in view of Applicant's prior art admission in further view of Spasovic, Lazar Nikola, Planning Intermodal Drayage Network Operations, University of Pennsylvania, 1990, in further view of Coffee, U.S. Patent Application Publication No. US 2006/0182055 A1.

As per **Claim 1**, Nakagawa et al. discloses:



- a system for administering a collaborative shipping community, the collaborative shipping community having a plurality of members (column 3, lines 29-63; column 14, lines 8-17);

- a processor (Figure 3; column 10, lines 29-37; column 12, line 64, through column 13, line 16);

- memory operationally attached to said processor (Figure 3; column 9, lines 6-15; column 10, lines 29-37; column 12, line 64, through column 13, line 16);

- an input device operationally attached to said processor (Figure 3; column 7, lines 11-22; column 8, lines 43-53; column 10, lines 29-37; column 12, line 64, through column 13, line 16; column 14, lines 8-17);

- storing means for storing: a plurality of shipping resource data fields, and shipping resource data associated with at least one shipping resource, said shipping resource data corresponding to at least one of said plurality of shipping resource data fields, including pick-up locations (column 14, lines 18-54);

- receiving means for receiving query data from at least one member, said query data associated with at least one shipping need, and said query data corresponding to at least one of said plurality of shipping resource data fields (column 3, lines 48-63; column 4, lines 31-52; column 5, lines 9-25; column 14, lines 18-54);

- retrieval means for retrieving a shipping resource result list comprising at least one shipping resource having a match between said query data and said respective shipping resource data (column 3, lines 48-63; column 4, lines 31-52; column 5, lines 9-25; column 14, lines 18-54);

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- delivery means for delivering said shipping resource result list and said shipping resource data associated with each of said shipping resources in said shipping resource result list to the at least one member (column 7, lines 23-36; column 13, line 66, through column 14, line 2).

Nakagawa et al. fails to disclose wherein the type of shipping is drayage shipping. Applicant's prior art admission discloses wherein the type of shipping is drayage shipping (Applicant's specification, paragraphs [0003]-[0004]). Therefore, the prior art included each element claimed although not necessarily in a single reference. One of ordinary skill in the art could have combined the elements as claimed by known methods (this is simply applying the transportation system of Nakagawa et al. specifically to drayage services). In combination, each element merely would have performed the same function as it did separately (Nakagawa et al.'s limitations would still be coordinating shipping services among multiple system participants to improve efficiency; Applicant's prior art admission's limitation would still be providing the land transport portions of intermodal transportation routes). One of ordinary skill in the art would have recognized that the results of the combination were predictable (the limitations do not interfere with the proper use of the other limitations in the combination; there are no surprise effects from the combination). Thus, the combination would have been obvious.

Nakagawa fails to disclose maximizing reciprocal loads, minimizing bobtailing, and reducing congestion at terminals; administering a drayage dispatch system in real-time. Spasovic discloses maximizing reciprocal loads, minimizing bobtailing, and

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reducing congestion at terminals (pp. 36-40, 46, 56, 136, 139-140); administering a drayage dispatch system in real-time (top half of p. 219, all of p. 220, top half of p. 221). It would have been obvious to one of ordinary skill in the art to modify the invention of Nakagawa such that it maximizes reciprocal loads, minimizes bobtailing, and reduces congestion at terminals; and administers a drayage dispatch system in real-time, as disclosed by Spasovic, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Nakagawa fails to disclose wherein the shipping resource result list comprises multiple shipping resources. Coffee discloses wherein the shipping resource result list comprises multiple shipping resources (paragraphs [0012]-[0017]; paragraph [0406]; paragraph [0705]). It would have been obvious to one of ordinary skill in the art to modify the invention of Nakagawa such that the shipping resource result list comprises multiple shipping resources, as disclosed by Coffee, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Nakagawa fails to disclose wherein all matching results are retrieved in the result list. However, Examiner hereby takes Official Notice that that element/limitation was well-known to one of ordinary skill in the art at the time of Applicant's invention (it was known that one can do a complete query of the contents of a database). It would have

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been obvious to one of ordinary skill in the art to modify the invention of Nakagawa such that all matching results are retrieved in the result list, as disclosed by Official Notice, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per **Claim 3**, Nakagawa et al. fails to disclose wherein said drayage resource is a power unit. Applicant's prior art admission further discloses wherein said drayage resource is a power unit (Applicant's specification, paragraphs [0003]-[0004], paragraph [0006]). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Nakagawa et al. as modified in the rejection for claim 1 such that said drayage resource is a power unit, as disclosed by Applicant's prior art admission. Motivation is provided by Applicant's prior art admission in that power units are used to perform drayage services (Applicant's specification, paragraphs [0003]-[0004], paragraph [0006]).

As per **Claim 4**, Nakagawa et al. further discloses wherein said shipping resource is a load (column 14, lines 18-54).

As per **Claim 5**, Nakagawa et al. further discloses wherein said shipping resource is a storage space (column 14, lines 18-54; garage information).

As per **Claim 6**, Nakagawa et al. further discloses wherein said shipping resource is a service (column 11, lines 28-34; column 14, lines 8-17; carriers' business activity data represents their shipping services).

As per **Claim 7**, Nakagawa et al. further discloses wherein said plurality of shipping resource data fields comprises a controlling entity (column 14, lines 8-17; column 14, lines 18-54; carrier data, for example).

As per **Claims 8-9**, Nakagawa et al. fails to disclose wherein said controlling entity is an owner and wherein said controlling entity is a lessor. Applicant's prior art admission further discloses wherein said controlling entity is an owner and wherein said controlling entity is a lessor (Applicant's specification, paragraphs [0003]-[0004]). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Nakagawa et al. as modified in the rejection for claim 2 such that said controlling entity is an owner and such that said controlling entity is a lessor, as disclosed by Applicant's prior art admission. Motivation is provided by Applicant's prior art admission in that drayage operators may own or lease their equipment.

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As per **Claim 10**, Nakagawa et al. further discloses wherein said plurality of shipping resource data fields comprises a resource type field (column 14, lines 18-54; system distinguishes between various types of resources).

As per **Claim 11**, Nakagawa et al. and Applicant's prior art admission fail to disclose wherein said plurality of resource data fields comprises a serial number field. However, Examiner takes Official Notice that this element/limitation was well-known to one of ordinary skill in the art at the time of Applicant's invention (it was common to identify and track equipment via serial numbers in databases, with regard to various applications). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Nakagawa et al. as modified in the rejection for claim 1 such that said plurality of resource data fields comprises a serial number field, as was well-known to one of ordinary skill in the art at the time of Applicant's invention. Motivation is provided in that Examiner takes Official Notice that it was well-known to one of ordinary skill in the art at the time of Applicant's invention that a unique serial number allows for each individual piece of equipment in a system to be specifically identified relative to every other piece of equipment in the system (this follows from each serial number being unique).

As per **Claim 12**, Nakagawa et al. further discloses wherein said plurality of shipping resource data fields comprises a physical location field (column 10, lines 17-28; column 14, lines 18-54).

As per **Claim 13**, Nakagawa et al. further discloses wherein said plurality of shipping resource data fields comprises physical description field (Figure 8; column 14, lines 18-54; e.g., “vehicle type”).

As per **Claim 14**, Nakagawa et al. further discloses wherein said plurality of shipping resource data fields comprises a time available field (column 7, lines 23-36; column 8, lines 5-31).

As per **Claim 15**, Nakagawa et al. further discloses wherein said plurality of shipping resource data fields comprises an acquisition fee field (column 5, lines 9-24; column 10, lines 14-16; column 13, lines 39-47; column 14, lines 8-17).

As per **Claim 17**, Nakagawa et al. further discloses reserving means for reserving a shipping resource (column 5, lines 1-5; column 5, lines 9-25; column 7, lines 11-22; column 13, lines 29-35). Nakagawa et al. and Applicant's prior art admission fail to disclose confirming means for confirming the reservation. However, Examiner takes Official Notice that this limitation was well-known to one of ordinary skill in the art at the time of Applicant's invention (confirmation of online reservations was typical). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Nakagawa et al. as modified in the rejection for claim 1 such that it includes confirming means for confirming the reservation, as was well-known to

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one of ordinary skill in the art at the time of Applicant's invention. Motivation is provided in that Examiner takes Official Notice that it was well-known to one of ordinary skill in the art at the time of Applicant's invention that the purpose of confirming a reservation is to verify that the reservation was indeed completed.

As per **Claim 19**, Nakagawa et al. further discloses wherein said delivery means delivers exactly one shipping resource having resource data that best match said query data according to a predetermined matching algorithm (column 3, lines 48-63; column 4, lines 31-52; column 5, lines 9-25; column 14, lines 18-54).

As per **Claim 20**, Nakagawa et al. discloses:

- a system for administering a collaborative shipping community having a plurality of members (column 3, lines 29-63; column 14, lines 8-17);
- a processor (Figure 3; column 10, lines 29-37; column 12, line 64, through column 13, line 16);
- memory operationally attached to said processor (Figure 3; column 9, lines 6-15; column 10, lines 29-37; column 12, line 64, through column 13, line 16);
- an input device operationally attached to said processor (Figure 3; column 7, lines 11-22; column 8, lines 43-53; column 10, lines 29-37; column 12, line 64, through column 13, line 16; column 14, lines 8-17);
- a storage device for storing: a plurality of shipping resource data fields, and shipping resource data associated with at least one shipping resource, said shipping



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resource data corresponding to at least one of said plurality of shipping resource data fields, including pick-up locations (column 14, lines 18-54);

- a receiving unit for receiving query data from at least one member, said query data associated with at least one shipping need, and said query data corresponding to at least one of said plurality of shipping resource data fields (column 3, lines 48-63; column 4, lines 31-52; column 5, lines 9-25; column 14, lines 18-54);

- a retrieval unit for retrieving a shipping resource result list comprising at least one shipping resource having a match between said query data and said respective shipping resource data (column 3, lines 48-63; column 4, lines 31-52; column 5, lines 9-25; column 14, lines 18-54);

- a delivery unit for delivering to said at least one member said shipping resource result list and said shipping resource data associated with each shipping resource in the shipping resource list (column 7, lines 23-36; column 13, line 66, through column 14, line 2).

Nakagawa et al. fails to disclose wherein the type of shipping is drayage shipping. Applicant's prior art admission discloses wherein the type of shipping is drayage shipping (Applicant's specification, paragraphs [0003]-[0004]). Therefore, the prior art included each element claimed although not necessarily in a single reference. One of ordinary skill in the art could have combined the elements as claimed by known methods (this is simply applying the transportation system of Nakagawa et al. specifically to drayage services). In combination, each element merely would have performed the same function as it did separately (Nakagawa et al.'s limitations would

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still be coordinating shipping services among multiple system participants to improve efficiency; Applicant's prior art admission's limitation would still be providing the land transport portions of intermodal transportation routes). One of ordinary skill in the art would have recognized that the results of the combination were predictable (the limitations do not interfere with the proper use of the other limitations in the combination; there are no surprise effects from the combination). Thus, the combination would have been obvious.

Nakagawa fails to disclose administering a drayage dispatch system in real-time. Spasovic discloses administering a drayage dispatch system in real-time (top half of p. 219, all of p. 220, top half of p. 221). It would have been obvious to one of ordinary skill in the art to modify the invention of Nakagawa such that it administers a drayage dispatch system in real-time, as disclosed by Spasovic, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Nakagawa fails to disclose wherein the shipping resource result list comprises multiple shipping resources. Coffee discloses wherein the shipping resource result list comprises multiple shipping resources (paragraphs [0012]-[0017]; paragraph [0406]; paragraph [0705]). It would have been obvious to one of ordinary skill in the art to modify the invention of Nakagawa such that the shipping resource result list comprises multiple shipping resources, as disclosed by Coffee, since the claimed invention is merely a combination of old elements, and in the combination each element merely

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would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Nakagawa fails to disclose wherein all matching results are retrieved in the result list. However, Examiner hereby takes Official Notice that that element/limitation was well-known to one of ordinary skill in the art at the time of Applicant's invention (it was known that one can do a complete query of the contents of a database). It would have been obvious to one of ordinary skill in the art to modify the invention of Nakagawa such that all matching results are retrieved in the result list, as disclosed by Official Notice, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per **Claim 21**, Nakagawa et al. discloses:

- a method for administering a collaborative shipping community (column 3, lines 29-63; column 14, lines 8-17);
- using a computer for processing a readable medium, said medium having executable instructions (column 10, lines 17-28);
- obtaining data about shipping community participants regarding said participants' shipping resources (column 14, lines 18-54);
- causing said data to be stored in said computer (column 14, lines 18-54);

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- gathering query data from at least one participant (column 3, lines 48-63; column 4, lines 31-52; column 5, lines 9-25; column 14, lines 18-54);

- comparing in said computer said query data against said shipping resource data (column 3, lines 48-63; column 4, lines 31-52; column 5, lines 9-25; column 14, lines 18-54);

- identifying by said computer at least one shipping resource having resource data that match said query data (column 3, lines 48-63; column 4, lines 31-52; column 5, lines 9-25; column 14, lines 18-54).

Nakagawa et al. fails to disclose wherein the type of shipping is drayage shipping. Applicant's prior art admission discloses wherein the type of shipping is drayage shipping (Applicant's specification, paragraphs [0003]-[0004]). Therefore, the prior art included each element claimed although not necessarily in a single reference. One of ordinary skill in the art could have combined the elements as claimed by known methods (this is simply applying the transportation system of Nakagawa et al. specifically to drayage services). In combination, each element merely would have performed the same function as it did separately (Nakagawa et al.'s limitations would still be coordinating shipping services among multiple system participants to improve efficiency; Applicant's prior art admission's limitation would still be providing the land transport portions of intermodal transportation routes). One of ordinary skill in the art would have recognized that the results of the combination were predictable (the limitations do not interfere with the proper use of the other limitations in the combination;

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there are no surprise effects from the combination). Thus, the combination would have been obvious.

Nakagawa et al. and Applicant's prior art admission fail to disclose wherein data about shipping community participants is gathered directly from them. However, Examiner takes Official Notice that it was well-known to one of ordinary skill in the art at the time of Applicant's invention that one of the quickest ways to obtain information about an organization is typically to contact the organization directly (this is done frequently in the business world). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Nakagawa et al. as modified above in this rejection such that information about an organization is gathered directly from them, as was well-known to one of ordinary skill in the art at the time of Applicant's invention. Motivation is provided in that Examiner takes Official Notice that it was well-known to one of ordinary skill in the art at the time of Applicant's invention that organizations are frequently willing to share information about themselves with the outside world for conducting business.

Nakagawa fails to disclose administering a drayage dispatch system in real-time. Spasovic discloses administering a drayage dispatch system in real-time (top half of p. 219, all of p. 220, top half of p. 221). It would have been obvious to one of ordinary skill in the art to modify the invention of Nakagawa such that it administers a drayage dispatch system in real-time, as disclosed by Spasovic, since the claimed invention is merely a combination of old elements, and in the combination each element merely

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would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Nakagawa fails to disclose wherein the shipping resource result list comprises multiple shipping resources. Coffee discloses wherein the shipping resource result list comprises multiple shipping resources (paragraphs [0012]-[0017]; paragraph [0406]; paragraph [0705]). It would have been obvious to one of ordinary skill in the art to modify the invention of Nakagawa such that the shipping resource result list comprises multiple shipping resources, as disclosed by Coffee, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per **Claim 22**, Nakagawa et al. further discloses reserving at least one of said shipping resources having resource data that match said query data (column 5, lines 1-5; column 5, lines 9-25; column 7, lines 11-22; column 13, lines 29-35).

As per **Claim 23**, Nakagawa et al. and Applicant's prior art admission fail to disclose confirming a reservation for a resource. However, Examiner takes Official Notice that this limitation was well-known to one of ordinary skill in the art at the time of Applicant's invention (confirmation of online reservations was typical). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Nakagawa et al. as modified in the rejection for claim 21 such

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that it confirms a reservation for a resource, as was well-known to one of ordinary skill in the art at the time of Applicant's invention. Motivation is provided in that Examiner takes Official Notice that it was well-known to one of ordinary skill in the art at the time of Applicant's invention that the purpose of confirming a reservation is to verify that the reservation was indeed completed.

As per **Claim 25**, Nakagawa et al. further discloses wherein said step of identifying said shipping resources having resource data that match said query data is accomplished according to a predetermined matching algorithm (column 3, lines 48-63; column 4, lines 31-52; column 5, lines 9-25; column 14, lines 18-54).

As per **Claims 26-30**, Nakagawa et al. fails to disclose wherein said drayage community participants include drayage operators, drayage brokers, owner-operators, intermodal marketing companies, and line-haul operators. Applicant's prior art admission further discloses wherein said drayage community participants include drayage operators, drayage brokers, owner-operators, intermodal marketing companies, and line-haul operators (Applicant's specification, paragraphs [0004] and [0008]). Therefore, the prior art included each element claimed although not necessarily in a single reference. One of ordinary skill in the art could have combined the elements as claimed by known methods (this is just a further adaptation of Nakagawa et al. to incorporate several specific types of drayage service providers into its system). In combination, each element merely would have performed the same

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function as it did separately (Nakagawa et al.'s limitations would still be coordinating shipping services among multiple system participants to improve efficiency; Applicant's prior art admission's limitations would still be providing the land transport portions of intermodal transportation routes and providing several types of drayage community services; the Officially Noticed limitation would still be providing a function of allowing needed data to be obtained). One of ordinary skill in the art would have recognized that the results of the combination were predictable (the limitations do not interfere with the proper use of the other limitations in the combination; there are no surprise effects from the combination). Thus, the combination would have been obvious.

As per **Claim 32**, Nakagawa et al. fails to disclose wherein said drayage resources include power units. Applicant's prior art admission further discloses wherein said drayage resources include power units (Applicant's specification, paragraphs [0003]-[0004], paragraph [0006]). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Nakagawa et al. as modified in the rejection for claim 21 such that said drayage resources include power units, as disclosed by Applicant's prior art admission. Motivation is provided by Applicant's prior art admission in that power units are used to perform drayage services (Applicant's specification, paragraphs [0003]-[0004], paragraph [0006]).

As per **Claim 33**, Nakagawa et al. further discloses wherein said shipping resources include loads (column 14, lines 18-54).



As per **Claim 34**, Nakagawa et al. further discloses wherein said shipping resources include storage spaces (column 14, lines 18-54; garage information).

As per **Claim 35**, Nakagawa et al. further discloses wherein said shipping resources include services (column 11, lines 28-34; column 14, lines 8-17; carriers' business activity data represents their shipping services).

19. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa et al. in view of Applicant's prior art admission in further view of Spasovic in further view of Coffee in further view of Carson, U.S. Patent No. 6,577,921 B1.

As per **Claim 2**, Nakagawa et al. and Applicants' prior art admission fail to disclose wherein said shipping resource being tracked is a container. Carson discloses wherein said shipping resource being tracked is a container (column 1, line 66, through column 2, line 24). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Nakagawa et al. as modified in the rejection for claim 1 such that said shipping resource being tracked is a container, as disclosed by Carson. Motivation is provided by Carson in that tracking shipping containers helps to avoid losing them (column 1, line 66, through column 2, line 24).

20. Claim 18 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa et al. in view of Applicant's prior art admission in further view of Spasovic in further view of Coffee in further view of Taylor, John C., and Jackson, George C.,

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"Conflict, Power, and Evolution in the Intermodal Transportation Industry's Channel of Distribution," Transportation Journal, Spring 2000, pp. 5-17.

As per **Claim 18**, Nakagawa et al. further discloses an agreement proposal means (column 5, lines 1-5; column 5, lines 9-25; column 7, lines 11-22; column 13, lines 29-35; means for setting up order, which is an agreement). Nakagawa et al. and Applicant's prior art admission fail to disclose proposing an interchange agreement. Taylor et al. discloses proposing an interchange agreement (p. 13, column 2). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Nakagawa et al. as modified in the rejection for claim 17 such that it proposes an interchange agreement, as disclosed by Taylor et al. Motivation is provided by Taylor et al. in that interchange agreements allow for the more effective use of equipment (p. 13, column 2).

As per **Claim 24**, Nakagawa et al. further discloses an agreement proposal means (column 5, lines 1-5; column 5, lines 9-25; column 7, lines 11-22; column 13, lines 29-35; means for setting up order, which is an agreement). Nakagawa et al. and Applicant's prior art admission fail to disclose executing an interchange agreement. Taylor et al. discloses executing an interchange agreement (p. 13, column 2). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Nakagawa et al. as modified in the rejection for claim 21 such that it executes an interchange agreement, as disclosed by Taylor et al. Motivation is

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provided by Taylor et al. in that interchange agreements allow for the more effective use of equipment (p. 13, column 2).

21. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakagawa in view of Applicant's prior art admission in further view of Spasovic in further view of Coffee in further view of Carson.

As per **Claim 31**, Nakagawa et al. and Applicants' prior art admission fail to disclose wherein said shipping resource being tracked is a container. Carson discloses wherein said shipping resource being tracked is a container (column 1, line 66, through column 2, line 24). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Nakagawa et al. as modified in the rejection for claim 21 such that said shipping resource being tracked is a container, as disclosed by Carson. Motivation is provided by Carson in that tracking shipping containers helps to avoid losing them (column 1, line 66, through column 2, line 24).

### ***Conclusion***

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHAN ERB whose telephone number is (571)272-7606. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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NATHAN ERB  
Examiner  
Art Unit 3628

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